

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, : 15-CR-393 (MKB)
:
Plaintiff, : United States Courthouse
: Brooklyn, New York
-against- :
: February 9, 2017
FAREED MUMUNI, : 2:00 p.m.
:
Defendant. :
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEA
BEFORE THE HONORABLE MARGO K. BRODIE
UNITED STATES DISTRICT JUDGE

APPEARANCES

For the Plaintiff: ROBERT L. CAPERS
UNITED STATES ATTORNEY
271 Cadman Plaza East
Brooklyn, New York 11201

BY: DOUGLAS PRAVDA,
Assistant United States Attorney
ALEXANDER A. SOLOMON,
Assistant United States Attorney
IAN C. RICHARDSON,
Assistant United States Attorney

For the Defendant: ANTHONY L. RICCO, ESQ.
STEVEN Z. LEGON, ESQ.
20 Vesey Street - Suite 400
New York, New York 10007

KENNETH J. MONTGOMERY, ESQ.
198 Rogers Ave
Brooklyn, New York 11225

Court Reporter: LINDA A. MARINO, RPR
225 Cadman Plaza East
Brooklyn, NY 10021
(718) 613-2484

Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

1 THE COURTROOM DEPUTY: Criminal cause for a plea
2 hearing, Docket 15-CR-393, United States v. Fareed Mumuni.
3 Will the parties please state their appearances for the
4 record?

5 MR. SOLOMON: Good afternoon, your Honor.
6 Alex-Solomon, Doug Pravda, and Ian Richardson for the
7 Government.

8 THE COURTROOM DEPUTY: Good afternoon, counsel.

9 MR. RICCO: Good afternoon, your Honor. Anthony
10 Ricco for Fareed Mumuni, and I'm joined by Attorney Steven
11 Legon and Ken Montgomery.

12 THE COURT: Good afternoon, counselor. And good
13 afternoon, Mr. Mumuni.

14 And Mr. Ricco, I understand that your client wishes
15 to plead guilty to the five counts of the indictment with
16 which he is charged.

17 MR. RICCO: Yes, he does, your Honor.

18 THE COURT: And those counts, so that it's clear for
19 the record, are conspiracy to provide material support to
20 foreign terrorist organization, the Islamic State of Iraq and
21 Levant, which I'll refer to as "ISIL" throughout, that's Count
22 One; Count Two, attempt to do the same; Count Three,
23 conspiracy to assault federal officers; Count Five, attempt to
24 murder federal officers; and Count Six, assault of a federal
25 officer.

1 MR. RICCO: Yes, your Honor.

2 THE COURT: Mr. Mumuni, your attorney has advised me
3 that you wish to plead guilty to all five counts of the
4 indictment in which you are charged.

5 THE DEFENDANT: Yes.

6 THE COURT: This is a serious decision, and I must
7 be certain that you make it understanding the rights and
8 consequences of your plea. I'm going to explain certain
9 rights to you, but before I do that and before I accept your
10 plea, there are a number of questions that I must ask you to
11 ensure that it is a valid plea to all five counts.

12 If at any time you do not understand any of my
13 questions, let me know, I will rephrase them. If at any time
14 you need to consult with any of your three lawyers, let me
15 know, and I will give you an opportunity to consult with them.
16 Is that clear, Mr. Mumuni?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Before I begin, because I need your
19 answers to my questions to be under oath, I am going to have
20 the clerk swear you in.

21 (Defendant sworn.)

22 THE COURT: What is your full name?

23 THE DEFENDANT: Fareed Abib Mumuni.

24 THE COURT: How old are you?

25 THE DEFENDANT: 22.

1 THE COURT: How far did you get in school?

2 THE DEFENDANT: Second semester of college.

3 THE COURT: And are you able to speak and understand
4 English?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Mr. Ricco, I'll address all questions to
7 you, as lead counsel. Have you been able to communicate with
8 your client in English?

9 MR. RICCO: Yes, your Honor.

10 THE COURT: Mr. Mumuni, have you ever been treated
11 or hospitalized for any mental illness?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Are you currently or have you recently
14 been under the care of a doctor or psychiatrist for any
15 reason?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Have you been treated or hospitalized
18 for any type of addiction, including drug or alcohol
19 addiction?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Have you taken any drugs, medicine,
22 pills, or had any alcoholic beverages in the last two days?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: Is your mind clear as you sit here
25 today?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And do you understand what is happening
3 today?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Counsel, have you discussed the matter
6 of pleading guilty with your client?

7 MR. RICCO: Yes, we have, your Honor.

8 THE COURT: Does he understand the rights he would
9 be waiving by pleading guilty?

10 MR. RICCO: He does, your Honor.

11 THE COURT: Is he capable understanding the nature
12 of these proceedings?

13 MR. RICCO: I'm satisfied that he does, your Honor.

14 THE COURT: And do you have any doubt as to his
15 competence to plead guilty today?

16 MR. RICCO: None whatsoever.

17 THE COURT: Have you advised him of the maximum and
18 minimum sentence he faces on each count?

19 MR. RICCO: Yes, your Honor.

20 THE COURT: Have you advised him that the sentence
21 on the counts could run consecutively to each count?

22 MR. RICCO: Yes, we have, your Honor.

23 THE COURT: Have you discussed with him the effect
24 of the sentencing guidelines?

25 MR. RICCO: Yes, we have your Honor, on several

1 occasions.

2 THE COURT: Mr. Mumuni, have you reviewed a copy of
3 the indictment, which includes all of the charges against you?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Have you fully discussed the charges and
6 your case in general with your counsel?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: I'm going to explain the charges to you
9 because I want to make sure that you understand them. I'm
10 going to briefly tell you what the elements are of each of the
11 counts.

12 As to Count One, conspiracy to provide material
13 support to a foreign terrorist organization, the Government
14 would have to prove if you were to go to trial that you
15 entered into an unlawful agreement with at least one other
16 person; that you did so to provide support or resources to
17 ISIL; that you knew that ISIL was, in fact, a foreign
18 terrorist organization or that ISIL had engaged or was
19 engaging in terrorist activity or terrorism; and that you
20 knowingly and intentionally became a member of that
21 conspiracy.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: As to Count Two, the charge of attempt
25 to provide material support to a foreign terrorist

1 organization, the Government would have to prove that you
2 intended to commit the crime of providing material support or
3 resources to ISIL; that you knew that ISIL was a designated
4 terrorist organization or that it had engaged or was engaging
5 in terrorist activity or terrorism; and that you did some act
6 that was a substantial step in an effort to bring about or
7 accomplish a crime.

8 Do you understand that as to Count Two?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: As to Count Three, conspiracy to assault
11 federal officers, the Government would have had to prove that
12 you entered into an unlawful agreement to assault a federal
13 officer, which person -- the federal officer -- was engaged in
14 or on account of performance of his or her official duties;
15 that you conspired to do so with the use of a dangerous
16 weapon, it could be dangerous or deadly weapon; and that you
17 knowingly and willingly became a member of the conspiracy; and
18 that at least one member of the conspiracy knowingly committed
19 at least one of the overt acts that are charged in the
20 indictment.

21 Does he have a copy of the indictment in front of
22 him, counsel?

23 MR. RICCO: A summary of it, your Honor, yes.

24 THE COURT: I'm going to list for you the three
25 overt acts that are charged in the indictment.

1 Overt Act One, on or about June 2, 2015, Saleh and
2 Mumuni exchanged electronic communications in which they
3 discussed attacking members of law enforcement; number two, on
4 or about June 13, 2015, Saleh attempted to attack a law
5 enforcement officer by charging at a law enforcement officer
6 with a knife in his hand; and Overt Act No. 3, on or about
7 June 17, 2015, Mumuni attempted to attack a law enforcement
8 officer by charging at a law enforcement officer with a knife
9 in his hand and stabbing him repeatedly. One of those acts
10 would have to be proved. And lastly, the act must have been
11 committed to further some objective of the conspiracy. So,
12 those are the elements of Count Three.

13 As to Count Five, attempted murder of federal
14 officer, the Government would have to prove that you
15 unlawfully attempted to kill the victim; that you did so with
16 malice aforethought, which basically means bad intent,
17 conscious intent; that the victim was a federal officer on the
18 day you attempted to murder him, which was June 17, 2015; and
19 that he was engaged in the performance of his official duties
20 at the time.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And did you understand the elements for
24 Count Three also?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: As to Count Six, assault of a federal
2 officer, the proof that the Government would have to present
3 would have to show that the victim was a federal officer on
4 June 17, 2015; that you forcibly assaulted or resisted or
5 opposed or impeded or intimidated or interfered with the
6 victim; that this forcible action involved the intent to
7 commit a subsequent felony; that the victim was engaged in the
8 performance of his judicial duties or was assaulted on account
9 of his official duties; and that you acting willfully and that
10 you used a deadly or a dangerous weapon to commit such acts.

11 Do you understand those elements?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: These are the charges that you wish to
14 plead guilty to. Do you understand them?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Have you had sufficient time to discuss
17 with your attorneys whether or not to plead guilty?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Are you fully satisfied with the
20 counsel, representation, and advice given to you in this case
21 by your attorneys?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: I'm now going to explain certain rights
24 to you. These are rights that you have that you will be
25 giving up if, in fact, you plead guilty to these charges. I

1 need you to listen carefully to what I'm about to say. And,
2 again, if you don't understand anything, let me know.

3 You have the right to continue to plead not guilty.
4 No one can be forced to plead guilty. Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: You have a right under the Constitution
7 and laws of the United States to a speedy and public trial by
8 a jury; do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: At trial, you would be presumed to be
11 innocent and the Government would have to prove you guilty
12 beyond a reasonable doubt; do you understand that.

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: You would have the right to the
15 assistance of counsel for your defense. Mr. Ricco,
16 Mr. Montgomery, and Mr. Legon have all been appointed to
17 represent you, and they would continue to represent you
18 throughout the trial and any subsequent proceeding.

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: You would have the right to see and hear
22 all witnesses and have them cross-examined in your defense; do
23 you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: You would have the right on your part to

1 decline to testify unless you voluntarily elected to do so in
2 your own defense; do you understand?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: You would have the right to the compel
5 the attendance of witnesses to testify in your defense; do you
6 understand?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Should you decide not to testify or put
9 on any evidence, those facts could not be used against you at
10 trial; do you understand?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: By entering a plea of guilty and if I
13 accept that plea, there will be no trial and you would have
14 given up your right, waived it, given it up, your right to
15 trial as well as all of those rights that I just discussed
16 with you; do you understand is that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: There will be no further trial of any
19 kind, no right to appeal from the judgment of guilty. I would
20 simply enter a judgment of guilty on the basis of your guilty
21 plea. Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: If you plead guilty, I still have to ask
24 you questions and satisfy myself that you are guilty of each
25 of these crimes. That means that you will be giving up your

1 right against self-incrimination. Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Are you willing to give up your right to
4 trial and all of those rights that I just mentioned to you?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that if you plead
7 guilty and you're not a U.S. citizen it may affect your
8 residency or your status with immigration authorities?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Counsel, were all formal plea offers
11 from the Government communicated to Mr. Mumuni?

12 MR. RICCO: Yes, they were, your Honor.

13 THE COURT: Mr. Mumuni, I must be certain that you
14 understand the consequences of pleading guilty to these five
15 crimes. I've already explained the elements of the crimes to
16 you. Now I'm going to review the consequences of your plea
17 with you.

18 As to Count One, conspiracy to provide material
19 support, you face a maximum term of imprisonment of 20 years;
20 do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: You face no mandatory minimum term. You
23 do, however, face a maximum supervised release term of life;
24 do you understand that?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: "Supervised release term" means you'll
2 be subject to supervision by the probation department when and
3 if you're released from custody. If you violate any of the
4 rules that are imposed on you, you can be sent back to prison
5 without credit for any time that you've previously served.

6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Counsel for the Government, you indicate
9 in your penalty sheet that he can serve up to 20 years of
10 additional time if he violates supervised release.

11 MR. SOLOMON: That's correct.

12 THE COURT: Can you tell me what provision of the
13 statute you're relying on for that?

14 I looked at 18 U.S.C. 2339B, which ultimately
15 referred me back to 18 U.S.C. 2332B(5), which, under that
16 definition, explained the 20 years and the life for maximum
17 supervised release, but I don't see anything in the statute
18 speaking specifically to serving an additional time of up to
19 20 years.

20 MR. SOLOMON: One moment, please, your Honor.

21 (Pause in proceedings.)

22 MR. SOLOMON: Mr. Pravda will address this point.

23 MR. PRAVDA: Your Honor, Under 18 U.S.C. 3583J, we
24 understand that supervised release term for a terrorism crime
25 is up to life. It is our understanding that some authorities

1 have taken the position that he cannot be sentenced beyond the
2 statutory maximum without raising due process concerns. So,
3 the 20 years come from the statutory maximum for the
4 underlying crime.

5 THE COURT: As the maximum. But how do you get to
6 if he violates supervised release that I can send him back to
7 jail for up to the maximum time of the crime?

8 MR. PRAVDA: I think it's at (j) is intended
9 entirely to replace the provision in 3583(e)(3)

10 THE COURT: Slow down so the court reporter can keep
11 up with you.

12 MR. PRAVDA: Subsection 3853(j) is intended to
13 replace entirely the provision in Section 3583(e)(3) that
14 includes the limitation on what term he could be sentenced to
15 for each individual violation.

16 THE COURT: Right. And I understand it to do that
17 as to the maximum term, but certainly not as to the violation
18 of a supervision.

19 Is it your understanding that that 20-year not only
20 replaces the maximum term of supervision but the term period
21 that I can sentence him to if he violates? My understanding
22 is that's typically five, three, two, one year, depending on
23 the type of felony.

24 So, I'm not aware, and I don't understand this
25 particular provision that you cite, 3583(j), to otherwise

1 eclipse the other sections in the statute that would then
2 require me, if, in fact, Mr. Mumuni violates supervision, to
3 be able to send him back to jail for up to a period of the
4 maximum.

5 That's my question, counsel.

6 MR. SOLOMON: One moment, please, your Honor.

7 (Pause in proceedings.)

8 MR. PRAVDA: Your Honor, it's my understanding that
9 that's the position that the Department of Justice has taken
10 in other matters.

11 THE COURT: Okay.

12 Mr. Ricco, do you have any position on what
13 provision of time I can send Mr. Mumuni back to custody for
14 if, in fact, he violates his term of supervised release, which
15 under the statutory scheme is life, but because the maximum
16 term that he could be sentenced to is 20 years, that is the
17 max for supervised release, but I don't see anything that
18 directs me to what is the maximum amount of time I could send
19 him back to jail for.

20 The Government believes it's up to the maximum of 20
21 years, and I'm happy to advise Mr. Mumuni of that, unless you
22 know otherwise.

23 MR. RICCO: I know that that's the government's
24 view. And Mr. Mumuni has been advised that were that view to
25 be accepted by the Court, in particular the Second Circuit,

1 that is a possibility. But that is not how I understand it.

2 THE COURT: So, then, should I assume that at
3 sentencing that is something that will be litigated or not
4 something you plan to litigate until or if you appeal your
5 client's conviction and sentence?

6 MR. RICCO: That would be correct, your Honor.

7 THE COURT: So, Mr. Mumuni, you've heard the
8 discussion that I've had with both sides. I will advise you
9 that, based on the government's representation, and it appears
10 that your attorney understands that to be the Department of
11 Justice's reading of the statute, if you do violate supervised
12 release on this count, I could send you back to prison for up
13 to 20 years, without credit for any time you've previously
14 served.

15 Do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: You also face a maximum fine of \$250,000
18 and a special assessment of \$100. The special assessment will
19 have to be imposed. Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: The Government states that restitution
22 will be determined by the Court.

23 Will the Government be seeking restitution; and, if
24 so, for what?

25 MR. SOLOMON: Your Honor, as a side note, there is a

1 victim in this matter.

2 THE COURT: I'm aware of that.

3 MR. SOLOMON: And we did make the victim aware of
4 today's proceedings, and because of the weather he was unable
5 to attend.

6 THE COURT: Did the victim request that the matter
7 be adjourned so that he could attend?

8 MR. SOLOMON: No, he did not. He will likely be
9 attending tomorrow's proceedings as well.

10 THE COURT: Okay.

11 MR. SOLOMON: And I'm not aware of any damage
12 suffered by the victim, but that's something we'll address
13 with him.

14 THE COURT: So Mr. Mumuni, I'm required to advise
15 you that there could be restitution to be determined by the
16 time that you are sentenced; do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: As to Count Two, you face the exact same
19 consequences, the maximum term of 20 years, maximum supervised
20 release term of life. If you violate supervised release, you
21 can be sent back to jail for up to 20 years.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: The same fine and also the same \$100
25 special assessment.

1 As to Count Three, you face a maximum term -- this
2 is the count charging you with conspiracy to assault federal
3 officers. You face a maximum term of imprisonment of five
4 years in custody. No mandatory minimum term, maximum
5 supervised release term of three years. And if you were to
6 violate supervised release on this count, you face additional
7 time of up to one year in custody, and, again, no credit for
8 any prior sentence.

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: You also face a maximum fine of \$250,000
12 an a \$100 special assessment.

13 And as to all of the counts the Government is
14 seeking restitution, so I'll advise you as to all counts.
15 There's a potential for restitution which you will know about
16 by the time of sentencing. There's also a \$100 fine on each
17 count and \$100 special assessment and a maximum fine of
18 \$250,000 on each count.

19 Turning to Count Five, attempted murder of federal
20 officers, you face a maximum term of imprisonment of 20 years,
21 no mandatory minimum, a maximum supervised release term of
22 five years. If you violate supervised release, you can be
23 sent back to prison to serve additional time of up to two
24 years without any credit for prior time served.

25 Do you understand that?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: As as to Count Six, the final count, you
3 face a maximum term of imprisonment of 20 years in custody for
4 assault of a federal officer, no mandatory minimum.

5 Is there a question, Mr. Ricco?

6 MR. RICCO: No, your Honor.

7 THE COURT: Maximum supervised release term of five
8 years. If you violate supervised release, you can be
9 resentenced for up to two years in custody without credit for
10 any prior time served.

11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And the fine again is \$250,000 maximum
14 and a \$100 special assessment. And as I indicated earlier,
15 the sentence for each of the counts, I could order that it be
16 served consecutively to your sentence on the other counts.

17 Do you understand what that means, Mr. Mumuni?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Turning to the sentencing guidelines,
20 they were implemented to guide judges, like myself, in terms
21 of determining what an appropriate sentence is. They are
22 advisory. I will consider them along with a number of other
23 factors before I determine what an appropriate sentence is in
24 your case. I want to make sure that you understand that your
25 sentence will be determined by a combination of the advisory

1 sentencing guidelines, possible authorized departure from
2 those guidelines, either below or above, and other statutory
3 sentencing factors.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Have you and your attorney discussed how
7 the advisory sentencing guideline may apply in your case?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: I will not be able to determine what the
10 advisory guideline range for your case will be until after the
11 presentence report, although I've been informed by the
12 government that it is 85 years because of the statutory max.

13 Is that correct?

14 MR. SOLOMON: Yes, your Honor.

15 THE COURT: I won't know what it is until I've
16 looked at the presentence report and you and your attorney
17 have had an opportunity to review it, comment on it, and make
18 any objections you believe are necessary; do you understand
19 that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: The sentence that I ultimately impose
22 may be different from any estimate your attorney may have
23 given you; do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: After your initial advisory guideline

1 has been determined, I have the authority under certain
2 circumstances to depart upward or downward from the advisory
3 guideline range. And I'll look at, as I indicated earlier, a
4 number of other sentencing factors in making that
5 determination. That may result in the imposition of a
6 sentence that is either greater or lesser than the advisory
7 guideline range.

8 Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Parole has been abolished in the federal
11 system, so whatever time you're sentenced to prison you will
12 not be released on parole; do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: So, in discussing the guidelines,
15 Government, your estimate is that it's 85 years?

16 MR. SOLOMON: That's correct, your Honor.

17 THE COURT: And that is stacking all the counts,
18 correct?

19 MR. SOLOMON: Yes, your Honor.

20 THE COURT: And Mr. Ricco, do you have an estimate?

21 MR. RICCO: Your Honor, I've reviewed the guidelines
22 with Mr. Mumuni and have had occasion to discuss it with the
23 Government. We don't disagree that the Government's estimate
24 as to the applicable guidelines would probably apply in this
25 case, and that has been the range and the levels that we have

1 discussed with Mr. Mumuni in connection with advising him of
2 the risks of proceeding to trial.

3 THE COURT: Mr. Mumuni, do you understand that these
4 estimates could be wrong?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that there is no
7 guarantee as to a particular guideline range or sentence?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: That I will have to determine that range
10 and that I'm not required to sentence you within that range?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: If the advisory guideline range in the
13 presentence report is different than the guideline range you
14 expect, you will not be able to take your plea back; do you
15 understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: If your ultimate sentence is different
18 than the estimate you hope it will be or different than what
19 you expect your sentence to be or different from the estimate
20 that your attorneys have advised you that it could be, you can
21 not take your plea back; do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you have any questions about the
24 rights you are giving up, the punishment you face, the nature
25 of the charges, or anything else before you enter a plea in

1 these charges?

2 THE DEFENDANT: I understand, your Honor.

3 THE COURT: Do you have any questions?

4 THE DEFENDANT: I have no questions.

5 MR. SOLOMON: Your Honor?

6 THE COURT: Yes.

7 MR. SOLOMON: I'm sorry to interrupt. Just for the
8 record, responding to something that Mr. Ricco said, while
9 there were plea negotiations in this case, there was no formal
10 plea offer extended by the Government to the defense.

11 THE COURT: Understood.

12 Mr. Mumuni, are you ready to plead guilty?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Counsel, do you know of any reason why
15 your client should not plead guilty?

16 MR. RICCO: No factual or legal reason, your Honor.

17 THE COURT: Are you aware of any viable defenses?

18 MR. RICCO: No, your Honor.

19 THE COURT: Mr. Mumuni, I'm going to ask you your
20 plea as to each individual count.

21 What is your plea as to Count One, conspiracy to
22 provide material support to a foreign terrorist organization,
23 here, ISIL, guilty or not guilty?

24 THE DEFENDANT: Guilty.

25 THE COURT: As to Count Two, attempt to provide

1 material support to a foreign terrorist organization, guilty
2 or not guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: Count Three, conspiracy to assault
5 federal officers, guilty or not guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: Count Five, attempted murder of federal
8 officers, guilty or not guilty?

9 THE DEFENDANT: Guilty.

10 THE COURT: Count Six, assault of a federal officer,
11 guilty or not guilty?

12 THE DEFENDANT: Guilty.

13 THE COURT: Are you making the plea of guilty to
14 each count voluntarily and of your own free will?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Has anyone threatened you or forced you
17 to plead guilty?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Has anyone made any promise that caused
20 you to plead guilty?

21 THE DEFENDANT: No, your Honor.

22 THE COURT: Has anyone made any promises to you as
23 to what your sentence will be?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Mr. Mumuni, I need you to tell me what

1 you did to make you guilty of each of the crimes that you're
2 pleading guilty to. I need to assure myself that you are, in
3 fact, guilty of all five crimes.

4 So, why don't you tell me what you did?

5 THE DEFENDANT: On Count One, between February 2015
6 and June 2015, and within the Eastern District of New York, I
7 knowingly and intentionally agreed with others to provide
8 material support and resources to ISIL, and I knew ISIL was
9 involved in terrorism.

10 THE COURT: And you said that was in the Eastern
11 District of New York. Where?

12 THE DEFENDANT: Staten Island.

13 THE COURT: And this is between February and June of
14 2015?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And what did you do?

17 THE DEFENDANT: I was talking about it with friends,
18 about traveling overseas.

19 THE COURT: Traveling overseas. To do what, assist
20 ISIS in his some way.

21 THE DEFENDANT: Yes, to join ISIS and defend Islam.

22 THE COURT: And you said you were doing this with
23 friends, correct?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: And you understood that by going

1 overseas to join ISIS you would be providing material support
2 to them?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And you said you also knew that ISIL was
5 involved in terrorism, correct?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: As to Count Two?

8 THE DEFENDANT: Between February 2015 and June 2015,
9 and within the Eastern District of New York, I knowingly and
10 intentionally attempted to provide material support and
11 resources to ISIL by driving another individual to purchase
12 shoes and supplies to be taken overseas to further the
13 objectives of ISIS and have discussions with others about
14 traveling to the Middle East to defend Islam, and I did know
15 that ISIS was involved in terrorism.

16 THE COURT: And you did all of these acts knowingly
17 and intentionally?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: And it was your intent to be part of
20 this group?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Okay. Count Three, conspiracy to
23 assault federal officers.

24 THE DEFENDANT: Between May 2015 and June 2015, and
25 within the Eastern District of New York, I knowingly and

1 intentionally agreed with others to forcibly oppose and impede
2 any law enforcement officer who would prevent me from
3 traveling overseas to join ISIL in the Middle East by use of
4 dangerous or deadly weapon. In June 2015, I lunged at a law
5 enforcement officer with a knife.

6 THE COURT: And where did this take place?

7 THE DEFENDANT: In my house in Staten Island.

8 THE COURT: And you said you lunged at the officer
9 with a knife?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And you knew him to be a federal
12 officer?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And why was he at your house?

15 THE DEFENDANT: For a search warrant.

16 THE COURT: Okay. Count Five, attempted murder of
17 federal officers.

18 THE DEFENDANT: On June 17, 2015, during the
19 execution of a search warrant at my home, within the Eastern
20 District of New York, I did deliberately and intentionally
21 attempt to kill a law enforcement officer by launching at him
22 with a knife knowing that if I succeeded in my attempt I could
23 kill him.

24 THE COURT: Was that your intent?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: And you said the officer was there to
2 execute a search warrant, correct?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Assault of a federal officer, Count Six.
5 Is that the same conduct on June 17?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And what happened when you lunged at the
8 officer with your knife?

9 THE DEFENDANT: They tackled me and took me to the
10 ground.

11 THE COURT: What would the Government's proof at
12 trial be?

13 MR. SOLOMON: As to which element, I'm sorry?

14 THE COURT: As to all of the counts.

15 MR. SOLOMON: As to all of the counts. Your Honor,
16 the Government would prove that the defendant was a part of a
17 group of like-minded individuals who had pledged allegiance to
18 ISIL and they conspired to provide material support to ISIL by
19 arranging for members of the group to travel --

20 THE COURT: Slow down. The court reporter has to
21 take it down.

22 MR. SOLOMON: They conspired to provide material
23 support to ISIL by arranging for some of the members of the
24 group to travel to join ISIL. In fact, one of the members of
25 the group did attempt to travel to Syria, via Jordan. That

1 person's name was Nader Saadeh.

2 Alternatively, the group conspired to provide
3 material support to ISIL by conducting a domestic terror
4 attack on behalf of the organization.

5 THE COURT: What are you referring to?

6 MR. SOLOMON: Specifically, one of the members of
7 the group, the co-defendant Munther, had received bomb-making
8 instructions, and he and this defendant were preparing to
9 conduct a domestic terror attack.

10 THE COURT: Okay.

11 MR. SOLOMON: That's with respect to the material
12 support charges, your Honor.

13 THE COURT: Yes.

14 MR. SOLOMON: With respect to --

15 THE COURT: One second.

16 Mr. Mumuni, do you object to any of the allegations
17 as set forth by the Government; rather, do you agree with the
18 Government's statement of the facts in this case?

19 MR. RICCO: Judge, I think the Government's proof
20 would show that the conduct engaged in by Mr. Saleh is one
21 thing. And with respect to Mr. Mumuni, he has no objection
22 that there were discussions about that with him.

23 THE COURT: Right. That was the Government's
24 statement that he conspired with Mr. Saleh to engage in the
25 domestic attack, Mr. Saleh having received bomb-making

1 instructions. So, the question is whether or not he agrees
2 that he conspired with him.

3 MR. RICCO: There were discussions about that, your
4 Honor, yes.

5 THE COURT: Go ahead.

6 MR. SOLOMON: To continue, your Honor, because the
7 group of like-minded individuals was being surveilled by
8 members of law enforcement, there was an agreement to attack
9 the members of law enforcement so that the members of the
10 conspiracy could continue with their planning undeterred by
11 the continuous surveillance.

12 So, that brings us to the nonmaterial support
13 charges, your Honor.

14 Count Three charges the defendants with conspiracy
15 to assault federal officers. So, as I just discussed, your
16 Honor, there was an agreement to attack the members of law
17 enforcement who are performing surveillance and to do so with
18 deadly weapons. In the case of this defendant, he did attack
19 a special agent from the FBI with a kitchen knife during
20 execution of a judicially-authorized search warrant at the
21 defendant's home in Staten Island.

22 THE COURT: Okay.

23 MR. SOLOMON: And we would prove, I think as the
24 defendant has already allocuted to, we would prove that he
25 did, in fact, lunge at law enforcement officers with a knife

1 and, in fact, stabbed a law enforcement officer repeatedly in
2 the torso on June 17, 2015.

3 THE COURT: He didn't admit to that. He said he was
4 taken to the ground when he lunged at him.

5 MR. SOLOMON: So we would prove that, your Honor.

6 THE COURT: Mr. Ricco, does your client dispute
7 those facts?

8 MR. RICCO: He doesn't dispute the fact that he
9 lunged at the officer, he made at least one contact with him,
10 and was taken to the ground.

11 THE COURT: Okay.

12 MR. SOLOMON: With respect to Count Five, attempted
13 murder of federal officers, the Government would prove that
14 this attack at Mr. Mumuni's house did occur and that in his
15 post arrest statement the defendant admitted that he was
16 waiting to attack law enforcement. He was waiting for these
17 circumstances to occur. He had a kitchen knife hidden away in
18 his bedroom in a T-shirt, he also had a kitchen knife hidden
19 in his car, and, so, he was prepared to attack and kill
20 officers who were performing surveillance on him.

21 THE COURT: Anything else?

22 MR. SOLOMON: And I think that also covers Count
23 Six, which is assault of a federal officer.

24 THE COURT: It does.

25 MR. SOLOMON: Your Honor, I believe there are a

1 couple of elements which we need to address.

2 THE COURT: Okay.

3 MR. SOLOMON: With respect to Count Three,
4 conspiracy to assault federal officers, the Government would
5 have to prove that the overt act was committed to further some
6 objective of the conspiracy. I don't think we heard anything
7 in that regard from the defendant.

8 And finally, with respect to Count Five, attempted
9 murder of federal officers, we would have to prove that the
10 defendant acted with malice aforethought and that he acted
11 with premeditation.

12 THE COURT: Okay. And Mr. Mumuni, I believe I read
13 to you the overt acts that are charged in Count Three of the
14 indictment. In one of the overt acts, it charges that you
15 attempted to attack law enforcement.

16 Did you, in fact, do that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: With the knife, as alleged in the overt
19 act?

20 THE DEFENDANT: Yes, your Honor.

21 MR. RICCO: And your Honor, he stated that.

22 THE COURT: I thought he did.

23 MR. RICCO: He said on June 17 he lunged at a law
24 enforcement officer.

25 THE COURT: I guess the issue is, did you do that

1 with the intent to continue to assist ISIS, to further the
2 objectives of the conspiracy here?

3 THE DEFENDANT: Yes, if I was going to be stopped
4 from going.

5 THE COURT: Going abroad?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: I see. That satisfies that element.

8 And what was your other question?

9 MR. SOLOMON: Yes, your Honor. Count Five, the mens
10 rea requirements proving malice aforethought and acting with
11 premeditation.

12 THE COURT: I thought he allocuted to that also, the
13 attempted murder.

14 So, Mr. Mumuni, it sounds like you were planning to
15 go abroad to assist ISIS. You knew that you were being
16 surveilled by law enforcement. Correct?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And at some point, did you make plans to
19 prevent law enforcement or to attack them in some way, there
20 by preventing them from stopping you, as you indicated?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: You allocuted that it was your intent to
23 murder them, if necessary; is that accurate?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: And, so, when you lunged at law

1 enforcement on June 17, 2015, did you do so with the intent to
2 murder them if necessary? And you can take a minute and speak
3 to your attorney if you need to.

4 The issue, Mr. Ricco, is whether or not he acted
5 with premeditation, planning, and deliberation and, also,
6 whether it was willful.

7 THE DEFENDANT: I knew by lunging with them at a
8 knife, if I succeeded in my attempt I could kill them.

9 THE COURT: Okay. I believe that satisfies all of
10 the elements.

11 Based on the information given to me, as well as my
12 observation of the defendant and his demeanor here in court,
13 the representation of counsel for both sides, I find that the
14 defendant is fully competent and capable of entering an
15 informed plea, that he is aware of the nature of the charges
16 and the consequences of the plea, and that his plea of guilty
17 to each count is a knowing and voluntary plea and is supported
18 by an independent basis in fact containing the essential
19 elements of the offenses.

20 I, therefore, accept the plea of guilty to the five
21 counts of the indictment charged against Mr. Mumuni:
22 Conspiracy to provide material support to a foreign terrorist
23 organization, attempt to provide material support to a foreign
24 terrorist organization, conspiracy to assault federal
25 officers, attempted murder of federal officers, and assault of

1 a federal officer. And I now adjudge you, Mr. Mumuni, guilty
2 of all five offenses.

3 The probation department will prepare a written
4 presentence report. They will interview you. Your attorneys
5 can be there with you if you would like them to be. You will
6 be given an opportunity, as I indicated earlier, to file any
7 objections to the presentence report and the guideline
8 calculation in that report. So, I'm referring you to the
9 probation department.

10 Do we have a sentencing date?

11 THE COURTROOM DEPUTY: May 16, 2017, at 10 a.m.

12 THE COURT: Is there anything else?

13 MR. SOLOMON: Not from the Government, thank you.

14 THE COURT: Mr. Ricco?

15 MR. RICCO: No, your Honor. Thank you very much.

16 THE COURT: Okay. We're adjourned.

17
18 (Matter concluded.)
19
20

21 I certify that the foregoing is a correct transcript from the
22 record of proceedings in the above-entitled matter.
23

24 /s/ Linda A. Marino

March 9, 2017

25 _____
LINDA A. MARINO

DATE